

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**IN RE: PHILIPS RECALLED CPAP,
BI-LEVEL PAP, AND MECHANICAL
VENTILATION PRODUCTS
LITIGATION**

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Master Docket: Misc. No. 21-1230

MDL No. 3014

This Document Relates to:

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Dale Joseph Burke v. Philips RS North

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America LLC, et al., 2:24-CV-654

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**RESPONSE OF THE PHILIPS DEFENDANTS¹
TO DALE JOSEPH BURKE’S OBJECTION TO UPCOMING DEADLINES AND
DOCKET MANAGEMENT ORDER**

The Philips Defendants submit this response to the Objection to Upcoming Deadlines and Docket Management Order filed by Plaintiff Dale Joseph Burke (No. 2:24-CV-00654-JFC, ECF No. 16; the Objection).

Plaintiff Dale Joseph Burke has sought relief from the orders governing this MDL, including specifically his deadline to produce his medical records under the Docket Management Order, ECF No. 2769 (“Docket Management Order”).² The deadlines set forth in the Docket Management Order were carefully negotiated approximately one year ago and were entered by the Court to manage in a coordinated fashion the claims of all Litigating Plaintiffs, including Plaintiff Burke, “for the purpose of ensuring that further pretrial litigation against the Defendants in this mature MDL will progress as smoothly and efficiently as possible.” Docket Management Order at

¹ The Philips Defendants are defined as Koninklijke Philips N.V., Philips North America LLC, and Philips RS North America LLC (“Philips RS”).

² Notably, he does not propose any alternative schedule that would apply to him should his motion be allowed.

p. 12, ¶ 20. The Philips Defendants served Plaintiff Burke with a Notice of his obligations and deadlines under the Docket Management Order on February 28, 2025 via first class mail. Notice of Upcoming Deadlines Under Docket Management Order for Litigating Plaintiffs, 2:24-CV-00654-JFC, ECF No. 15.

The Court has previously denied requests for exceptions to the deadlines set forth in the Docket Management Order. *See* Mem. Opinion, ECF No. 3249 (denying motion for relief from Docket Management Order by *Graham* plaintiffs for failure to show good cause and acknowledging that “[c]reating individual exceptions and separate timelines could quickly become unmanageable”).

The Philips Defendants deny that they “violated” any of Plaintiff Burke’s constitutional rights, Opposition at ¶¶ 5, 11, in seeking establishment of the deadlines provided by the Docket Management Order, providing notice thereof to Plaintiff, or otherwise. The Philips Defendants take no position on whether Plaintiff Burke—an incarcerated individual—has demonstrated good cause for the Court to provide him additional time to comply with the requirements of the Docket Management Order, ECF No. 2769.

Dated: April 10, 2025

Respectfully submitted,

/s/ John P. Lavelle, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2025, the foregoing document was electronically filed with the Clerk of the Court and served upon counsel of record through the Court's ECF filing system.

s/ John P. Lavelle, Jr.

John P. Lavelle, Jr.